

Appl. No. 09/655,232
Response dated June 30, 2005
Reply to Office Action of June 1, 2005

REMARKS

Applicant has received and carefully reviewed the Office Action mailed on June 1, 2005. Favorable reconsideration is respectfully requested in light of the following comments. Applicant appreciates the Examiner's recognition that Myler, U.S. Patent No. 5,632,762, is not available as prior art against the claimed invention.

The Examiner has asserted that Applicant's response of March 1, 2005, was not fully responsive, and has cited 37 C.F.R. 1.111 in doing so. Applicant believes that the March 1, 2005, response was indeed fully responsive, despite the Examiner's assertions to the contrary.

In the Office Action mailed December 28, 2004, the Examiner relied upon Myler alone in an anticipation rejection and in combination with two secondary references in an obviousness rejection. Applicant's demonstration that Myler is not available as prior art is fully and completely responsive to both rejections. Applicant has fully responded to the pending rejections. The Examiner is directed to M.P.E.P. §715.02, which indicates that an obviousness rejection relying on several references may be overcome by predating any one of the references. Applicant has done so. Therefore, the pending rejections have been overcome. In response, the Examiner's legitimate options include issuing a new rejection or a Notice of Allowance.

Rather, the Examiner has requested that Applicant provide comments pertaining to the merits of the two secondary references, Ishida et al., U.S. Patent No. 5,002,556, and Becker et al., U.S. Patent No. 5,021,043, and as to whether these references alone are sufficient to render obvious the claimed invention. This request is without merit.

As stated above, Applicant's demonstration that the primary reference was unavailable as prior art fully and completely answered the obviousness rejection, as the primary reference was not available as prior art. Consequently, the rejection was flawed and appears to have properly

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been withdrawn. If the Examiner is now interested in asserting a *prima facie* obviousness rejection relying solely on the two secondary references, it is the Examiner's responsibility to demonstrate that a *prima facie* obviousness rejection can be made. It is not Applicant's responsibility to accomplish this for the Examiner.

Moreover, Applicant contends that neither secondary reference describes or suggests the claimed invention. Any further comments distinguishing the claimed invention over the secondary references will await a proper rejection. Favorable reconsideration is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

Date: 6/30/05



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